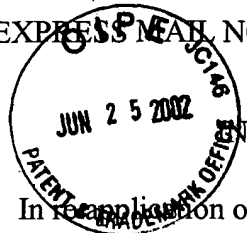


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Gp 1/1636

EXPRESS MAIL NO.: EL615211325US



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of:

Sean CHAPMAN, *et al.*

Application Serial No. 10/057,558

Filed: January 25, 2002

For: **METHOD FOR ENHANCING RNA
OR PROTEIN PRODUCTION
USING NON-NATIVE 5'
UNTRANSLATED SEQUENCES
IN RECOMBINANT VIRAL
NUCLEIC ACIDS**

Group Art Unit: 1636

Examiner: TBA

Attorney's Docket No: 00801.0137.CNUS16

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INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will consider information that had been cited by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. § 120. 1138 OG 37, 38 (May 19, 1992).

Applicants have checked the appropriate boxes below.

- ☒ 1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required.
- ☐ 2. This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.
 - ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
 - ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
 - ☐ c. Attached is our Check No. _____ in the amount of \$ _____ in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. It is hereby requested that the

Information Disclosure Statement be considered. Attached is our Check No.

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§ 1.17(i).

- ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☐ 4. Relevance of the non-English language document(s) is discussed in the present specification.
- ☐ 5. The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report is attached for the Examiner's information.
- ☐ 6. A concise explanation of the relevance of the non-English language document(s) appears below:
- ☐ 7. The Examiner's attention is directed to co-pending U.S. Patent Application No. _____, filed _____, which is directed to related technical subject matter. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.
- ☒ 8. Copies of the documents were cited by or submitted to the Office in Application No. 09/359,299, filed July 21, 1999, which is relied upon for an earlier filing date

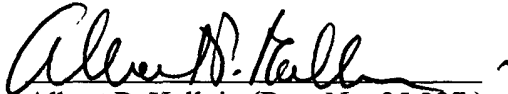
under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37
C.F.R. § 1.98(d).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038.

Respectfully submitted,

Date: June 25, 2002


Albert P. Halluin (Reg. No. 25,227)
Robin C. Chiang (Reg. No. 46,619)

HOWREY SIMON ARNOLD & WHITE, LLP.
301 Ravenswood Avenue
Box 34
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(650) 463-8109

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10/057,558

APPLICANT

Sean Chapman, et al.

FILING DATE

January 25, 2002

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1636

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	*	5,977,438	11/02/1999	Turpen, et al.			
	*	5,922,602	07/13/1999	Kumagai, et al.			
	*	6,037,456	03/14/2000	Garger et al.			
	*	4,373,071	02/08/1983	Itakura			
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	*	5,316,931	05/31/1994	Donson et al.			

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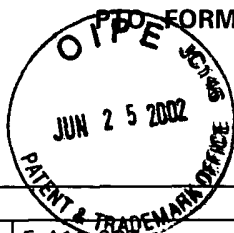
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							YES	NO
	*	WO 93/03161	Feb 18, 1993	PCT			X	
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	*	WO 91/01375 A	Feb 07, 1991	PCT				
	*	WO 94/10329	May 11, 1994	PCT				
	*	WO 95/34668	Dec 21, 1995	PCT				
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	*	WO 96/12028	April 25, 1996	PCT				
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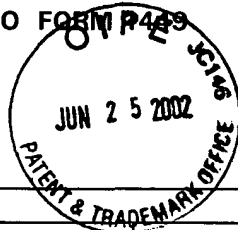
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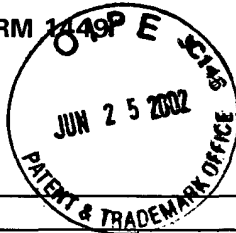
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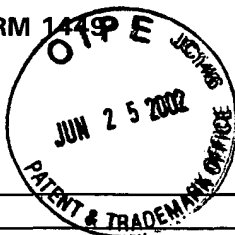
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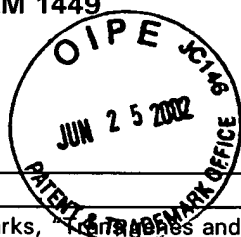
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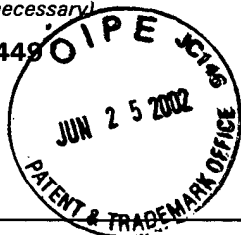
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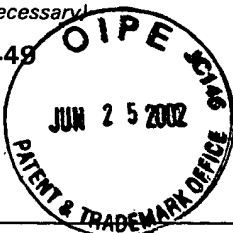
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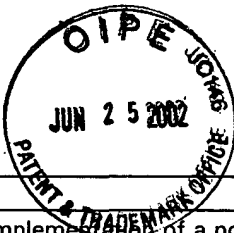
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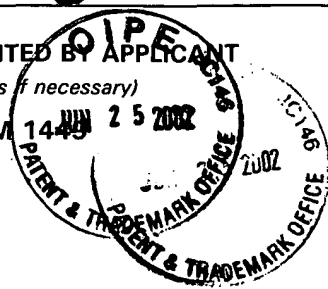
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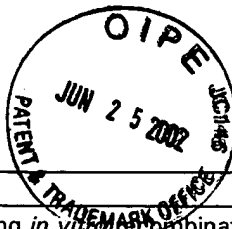
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